

QUESTIONS AND ANSWERS ABOUT INVESTIGATIONS



Central Complaint Unit

Medical Board of California

*the state agency that
licenses medical doctors,
investigates complaints,
and disciplines those
who violate the law*

Your complaint has been sent for investigation.

■ WHY IS MY COMPLAINT BEING REFERRED FOR INVESTIGATION?

Your complaint is being referred for investigation because the Board believes there may be evidence to show that a violation of the Business and Professions Code has occurred. If proven, the violation may warrant some kind of disciplinary measure.

■ WHAT KINDS OF COMPLAINTS WARRANT A FORMAL INVESTIGATION?

In general, any complaint that would warrant disciplinary action if substantiated (e.g., sexual misconduct, gross negligence and/or incompetence, etc.) is referred for investigation. Other kinds of complaints may also require a formal investigation. These include physician impairment, unprofessional conduct and unlicensed practice issues.

■ WHAT HAPPENS WHEN THE DISTRICT OFFICE RECEIVES MY COMPLAINT?

Complaints are referred to one of the Board's District Offices based on geographic location. The supervising investigator reviews the case and assigns it to an investigator. The investigator, and perhaps the supervisor, determines the proper investigative steps required to thoroughly investigate the complaint.

Complaints alleging negligence that involve patient death or serious bodily injury are given the highest priority. In addition, complaints alleging physician impairment, sexual misconduct or complaints which present immediate concern about patient harm, i.e., injury or death, are considered "high priority cases" and are given priority handling. Investigators are peace officers and have the authority to pursue criminal and

administrative violations of the law.

■ WHEN WILL I BE CONTACTED?

The Board considers all complaints important. Many complaints, however, present an immediate threat to public safety and must be given priority. The investigation of your complaint will be conducted in as timely a manner as possible. You will be contacted once the complaint has been assigned to an investigator and the investigative process has begun. Additional information should be held until that time; however, the Board should be notified in writing of any address and telephone number changes.

■ HOW IS THE INVESTIGATION CONDUCTED?

Investigative steps may include, but are not limited to the following:

- Obtaining medical records or other information/evidence
- Locating and interviewing the complainant, any witnesses, and the physician
- Obtaining expert review of the case
- Drafting and serving investigational subpoenas
- Inspecting the location where the allegations occurred
- Executing search warrants
- Conducting undercover operations

In general, after information is collected and compiled and the complainant has been interviewed, the investigator, and perhaps the supervisor or a medical consultant, interviews the physician to discuss the details of the complaint and ask questions.

Quality of care issues are then reviewed by a medical expert. The standard of proof for administrative cases is "clear and convincing evidence to a reasonable certainty," a much higher standard than for civil litigation cases. This can be a very challenging when pursuing a complaint because administrative charges must be proven

before an administrative law judge who uses this higher and more difficult standard.

If the investigation does not support a violation of the law, the complaint is closed. Also, if the evidence obtained in the investigation shows a violation occurred, but the violation is insufficient to support administrative action, the case is closed and maintained on file for future reference. The investigator will notify the complainant and the physician by telephone or in writing of the disposition of the complaint.

If the investigation reveals sufficient evidence of violations of the Medical Practice Act or other laws which would warrant discipline against the license, the case will be referred to the Office of the Attorney General (AG), Health Quality Enforcement Section, for administrative action.

■ **WHAT HAPPENS DURING THE DISCIPLINE PROCESS?**

When an investigation is completed, the case is reviewed by the supervising investigator and a representative from the AG's office who will determine whether sufficient evidence exists to support sending the case to the AG's office. The decision about what charges may be filed is based on a review of the evidence obtained and a determination by the AG's office about which charges can be substantiated by the evidence.

The AG's office determines if an accusation or petition to compel competency, psychological, or physical examination should be filed. Since every case is unique, the Medical Board and the AG's office will determine the most reasonable and appropriate method to ensure public protection. This process can be complicated and lengthy. Further questions should be directed to the assigned investigator. If the AG's office rejects the case, it will be closed and the complainant will be notified. Again, if future complaints of a similar nature are received, the earlier complaint may be considered further.

■ **IS THE INVESTIGATION CONFIDENTIAL?**

Details of the complaint and investigation remain confidential and are not public record; however, the complaint must be discussed with the physician.

■ **DO I HAVE PROTECTION FROM CIVIL LITIGATION?**

From time to time, patients express concern about the potential for a lawsuit resulting from the initiation and/or participation in an investigation. Civil Code Section 47 provides some protections against a lawsuit, and this issue can be further discussed with the assigned investigator. A copy of this section of law can be obtained from your local library or on the Internet at www.leginfo.ca.gov.

■ **WHERE ARE THE DISTRICT OFFICES?**

- **Cerritos** 562-402-4668
- **Diamond Bar** 909-396-5305
- **Fresno** 559-221-0558
- **Glendale** 818-551-2117
- **Pleasant Hill** 925-937-1900
- **Rancho Cucamonga** 909-476-4036
- **Sacramento** 916-263-2585
- **San Bernardino** 909-383-4755
- **San Diego** 858-467-6830
- **San Jose** 408-437-3680
- **Tustin** 714-247-2126

MEDICAL BOARD OF CALIFORNIA

Central Complaint Unit
1426 Howe Avenue, Suite 54
Sacramento, CA 95825

■ **To discuss your complaint, call:**

1-800-633-2322
or 916-263-2424
Fax: (916) 263-2435
TDD: (916) 263-0935

■ **To check on a specific doctor, call our Consumer Information Unit:**

916-263-2382

■ **Or visit our Web site:**

www.medbd.ca.gov

The mission of the Medical Board of California is to protect healthcare consumers through the proper licensing and regulation of physicians and surgeons and certain allied healthcare professions and through the vigorous, objective enforcement of the Medical Practice Act.